



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
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Candace Havens  
Director

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**MEMORANDUM**

Public Hearing Date: May 10, 2011  
Land Use Action Date: June 22, 2011  
Board of Aldermen Action Date: August 8, 2011  
90-Day Expiration Date: August 12, 2011

DATE: May 6, 2011

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development  
Eve Tapper, Chief Planner for Current Planning <sup>ET</sup>  
Derek Valentine, Senior Land Use Planner

SUBJECT: Petition #279-98(2) by SVETLANA OSTROVSKAYA to AMEND A SPECIAL PERMIT and SITE PLAN APPROVAL for an EXTENSION of a NONCONFORMING STRUCTURE #279-98, granted on 10/19/98, in order to construct an attached garage in the front setback on an existing nonconforming single family dwelling at 14 ROLAND STREET, Ward 8, on land known as SBL 83, 33, 6, containing approximately 14,819 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sect. 30-24, 30-23, 30-21(b) of the City of Newton Rev Zoning Ord, 2007.

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The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.

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### **EXECUTIVE SUMMARY**

The petitioner's property was the subject of a special permit approved under Board Order #279-98, which authorized the construction of an addition of a second story, a portion of which is in the front setback. The petitioner would like to build a two-car garage to the east of the existing dwelling. The proposed garage will be connected to the main house by a 12' by 12' covered breezeway. The proposed garage addition would be an extension of the structure, which is nonconforming with regard to front setback. The petitioner would like to modify the original special permit and seeks permission to extend the legally nonconforming structure within the front setback to construct this garage and attached breezeway.

#### **I. SIGNIFICANT ISSUES FOR CONSIDERATION:**

1. When reviewing this petition, the Board should determine whether the extension of a nonconforming structure is not substantially more detrimental to the neighborhood than the existing nonconforming structure and may wish to consider whether the following apply:
  - a. Providing vehicular access to the rear of the structure would involve more substantial grade alteration than the garage addition within the front setback.
  - b. The repair of the deteriorating sidewalk and the removal of one curb cut will improve the safety of pedestrians and motorists in the neighborhood.
  - c. Many of the other homes in the neighborhood are legally nonconforming with respect to front lot line setback.
  - d. The proposed addition is consistent with the architectural style of many of the newly rehabilitated homes in the neighborhood.
  - e. A mature wooded area provides natural screening between the site of the proposed expansion and the nearest neighboring property.

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD



29 Roland St



35 Roland St



24,30,36 Roland St

### A. Neighborhood and Zoning

The subject site is located between Christina Street and Charlemont Street in the southwest corner of the City, in the Newton Highlands neighborhood. It is in the center of a vast area zoned Single Residence 3. The neighborhood consists primarily of modest Cape Cod-style homes built in the 1940s to 1950s. Several of them have been expanded substantially into larger Colonials. The homes at 29 and 35 Roland Street are larger than others on the street and have two-car garages similar to what the petitioner is proposing (see pictures above). The style of the petitioner's addition will blend well with these neighborhood residences. To the east of the site are three small Cape Cod-style houses (24,30,36 Roland Street), which are legally nonconforming structures and are all located roughly 22 feet from the roadway.

### B. Site

The structure is located close to the Roland Street frontage because the site slopes rapidly towards the rear property line. There is a grade change of 32 feet over a linear distance of 150' from the high point of the site at the street to the low point at the rear property line. The property currently has two curb cuts and two driveways.

## III. PROJECT DESCRIPTION AND ANALYSIS



Location of proposed garage



1 FRONT ELEVATION  
SCALE: 1/4" = 1'-0"

Proposed garage

A. Land Use

The property will remain in single-family residential use.

B. Building and Site Design

The existing residence was expanded under the prior board order to within 17.6 feet of the front property line, while the required setback in an SR3 zone is 25 feet. The current proposal is for another addition, also 17.6 feet from the front property line to align with the existing structure.

The petitioner proposes a two-car garage that would be connected to the main residence by a 12' by 12' covered breezeway. This breezeway would be for aesthetic reasons only, as it will not provide direct access to the house. The petitioner would like to reserve the option of adding a doorway into the house at a later date, but at this point does not want to lose the coat closet that would have to be removed in order to provide this doorway. Materials for the proposed garage are not listed on the plans, but it is expected that the petitioner will clad the structure to be consistent with the existing residence.

C. Parking and Circulation

The site currently has two curb cuts and the petitioner is proposing a third. A single-family residential property with three curb cuts is a nearly unprecedented condition in Newton. The Planning Department recommends that the property be accessed by one curb cut. The petitioner should be expected to close the two existing curb cuts and replace the sidewalk and curbing along her frontage in accordance with City standards.

D. Landscape Screening

As part of Board Order #279-98, the petitioner was required to produce and execute a landscape plan. The landscaping on site is sufficient and consistent with the requirements of the previous Board Order, as well as with the landscaping found on other properties throughout the neighborhood. An area of mature woods exists along the eastern property line and will provide substantial natural screening between the site of the proposed garage and the adjacent property.

IV. TECHNICAL REVIEW

A. Technical Considerations

The property has an existing special permit and the petitioner seeks to modify the existing site plan and Board Order #279-98. The proposal requires relief through Newton Zoning Ordinance Sections 30-21(a)(2)(b) and 30-21(b) to extend a structure that is legally nonconforming with regard to front setback.

B. Newton Historical Commission

The structure is not historically significant and is not located in a local historic district.

C. Engineering Review

The Engineering Department has recommended that the petitioner replace the sidewalk for the entire frontage of the property as well as conduct soil testing to insure that on site drainage is sufficient.

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum ("ATTACHMENT C"), the petitioners are seeking the following reliefs:

- Section 30-21(a)(2)(b) and 30-21(b): to extend a legally nonconforming structure within the front setback
- Section 30-24: for issuance of a special permit
- Section 30-23: for site plan approval

VI. PETITIONERS' RESPONSIBILITIES

The petition is complete at this time.

**ATTACHMENTS:**

**ATTACHMENT A: VICINITY ZONING MAP**

**ATTACHMENT B: VICINITY LAND USE MAP**

**ATTACHMENT C: ZONING REVIEW MEMO**

**ATTACHMENT D: BOARD ORDER #279-98**



**ATTACHMENT E: ENGINEERING DEPARTMENT MEMO**

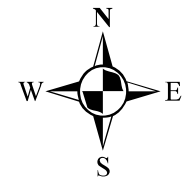
**ATTACHMENT F: DRAFT BOARD ORDER #279-98(2)**

# 14 Roland St Zoning

*City of Newton,  
Massachusetts*

## Legend

-  Single Residence 3
-  Public Use

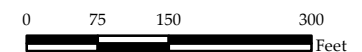


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS

Mayor - Setti D. Warren

GIS Administrator - Douglas Greenfield



**MAP DATE: May 06, 2011**

**ATTACHMENT A**



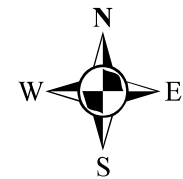


# 14 Roland St Land Use

*City of Newton,  
Massachusetts*

## Legend

- Single Family Residential
- Commercial
- Vacant Land
- Open Space
- Public Housing



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS

Mayor - Setti D. Warren

GIS Administrator - Douglas Greenfield

0 75 150 300  
Feet

MAP DATE: May 06, 2011

ATTACHMENT B

## ***Zoning Review Memorandum***

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Date: March 1, 2011

To: John Lojek, Commissioner of Inspectional Services

Fr: Seth Zeren, Chief Zoning Code Official  
Eve Tapper, Chief Planner for Current Planning ET

Cc: Svetlana Ostrovskaya, Property Owner  
Candace Havens, Director of Planning and Development  
Ouida Young, Associate City Solicitor

**RE: Request to permit the construction of an attached garage in the front setback**

<b>Applicant: Svetlana Ostrovskaya</b>	
<b>Site:</b> 14 Roland Street	<b>SBL:</b> 83033 0006
<b>Zoning:</b> SR3	<b>Lot Area:</b> 14,819 square feet
<b>Current use:</b> Single-family dwelling	<b>Proposed use:</b> Single-family dwelling

### **Background:**

The property at 14 Roland Street consists of a 14,819 square foot lot located in the SR3 zone currently improved with a single-family dwelling. In 1998, the applicant received a Special Permit, B.O. #279-98, from the Board of Aldermen to permit an expansion of the dwelling representing an extension of a nonconforming structure in the front setback. The applicant now proposes to build an attached garage to the north-east of the existing dwelling. The proposed garage is attached to the existing structure with a roofed walkway with no door accessing the dwelling.

The following review is based on plans and materials submitted to date as noted below.

Plans and materials reviewed:

- Site Plan, signed and stamped by Frank Iebba, Engineer, dated Jan 31, 2011
- Architectural drawings, unsigned and unstamped, Roberts Architecture+Design, dated 4/9/10
  - A1: Proposed Floor Plan
  - A3: Proposed Elevations
- Copy of Board Order #279-98



**Administrative determinations:**

1. The property is in the SR3 zone and must comply with the dimensional standards of Section 30-15, Table 1 for a pre-1953 lot (see chart below).

<b>SR3 Zone</b>	<b>Required/Allowed</b>	<b>Existing</b>	<b>Proposed</b>
Lot size	7,000 square feet	14,819 square feet	No change
Frontage	70 feet	100 feet	No change
Setbacks <ul style="list-style-type: none"><li>• Front</li><li>• Side</li><li>• Rear</li></ul>	25 feet 7.5 feet 15 feet	<b>17.6 feet</b> 9.1 feet 70 feet	<b>No change</b> No change No change
FAR	.35	.23	.265
Building Height	30 feet	25 feet	No change
Maximum Stories	2.5	Not given	No change
Max. Lot Coverage	30%	12%	15%
Min. Open Space	50%	81%	75%

2. The subject property is nonconforming with regard to front setback. The proposed garage addition would extend the existing nonconformity along the front setback at the same distance from the lot line. To build the project as proposed, the applicant must obtain a special permit from the Board of Aldermen per Sections 30-21(a)(2)b) and 30-21(b).
3. A previous Special Permit, B.O. #279-98, was granted in 1998 allowing an expansion of the second story into the front setback over a then existing nonconforming first floor. The applicant's current proposed addition represents a substantial expansion of the original special permit, requiring an amendment of the existing Special Permit and site showing the proposed improvements.
4. See "Zoning Relief Summary" below:

<b>Zoning Relief Summary</b>		
<b>Ordinance</b>	<b>Site</b>	<b>Action Required</b>
§30-21(a)(2)b) §30-21(b)	Extend a legally nonconforming structure in the front setback	S.P. per §30-24
	Amend existing special permit pursuant to B.O. #279-98	Amendment to B.O. #279-98
	Amend site plan, pursuant to B.O. #279-98	Amendment to B.O. #279-98

ATTACHMENT D

#279-98

CITY OF NEWTON  
IN BOARD OF ALDERMEN

October 19, 1998

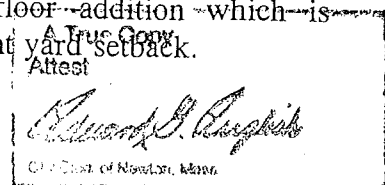
ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, the following SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF NON-CONFORMING USE/STRUCTURE is hereby granted, in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefor, through its Chairman, Alderman Susan M. Basham:

1. The Board of Aldermen finds that the proposed addition is not substantially more detrimental than the existing structure is to the neighborhood.
2. The Board of Aldermen finds that the proposed addition will enhance the neighborhood and is consistent with other structures in the neighborhood with second stories and non-conforming setbacks.

PETITION NUMBER: 279-98  
PETITIONER: Svetlana Ostrovskaya  
LOCATION: 14 Roland Street, Ward 8, Section 83, Block 33, Lot 6,  
containing approximately 14,819 sq. ft. of land  
OWNER: Svetlana Ostrovskaya  
ADDRESS OF OWNER: 19 Roland Street  
Newton Highlands, MA  
TO BE USED FOR: A second floor addition, a portion of which is within a  
non-conforming front setback.  
CONSTRUCTION: Wood frame

EXPLANATORY NOTE: Section 30-21(b) allows the Board of Aldermen to grant a special permit for a non-conforming structure, specifically, the construction of a second floor addition which is approximately 7 feet into the front yard setback.



CITY CLERK  
NEWTON, MA 02159

1998 OCT 30 PM 12:04

R3

35:31 1998 662 35:31 11:33:53 66/06/06 TSM

Land referred to is in a Single Residence 3 District.

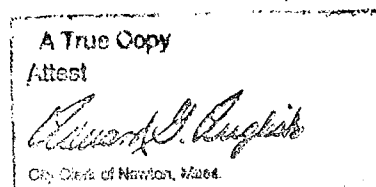
Approved, subject to the following conditions:

1. That all buildings, parking areas, driveways, walkways, landscaping and other site features shall be located and constructed consistent with plan entitled, "Plan showing proposed addition at #14 Roland Street, Newton, Massachusetts", dated June 13, 1998, by James Vafiades, and an undated set of elevation and floor plans, submitted by the petitioner and filed herewith.
2. That a revised stamped survey plan be submitted to reflect the new setback from the new front porch.
3. That no building permit shall be issued in pursuance of the SPECIAL PERMIT/SITE PLAN APPROVAL and SITE PLAN APPROVAL until:
  - a. That the Director of Planning and Development shall have reviewed and approved architectural plans including the facade and roof materials and colors of the building.
  - b. The petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a Certified copy of this Board Order granting this SPECIAL PERMIT/SITE PLAN APPROVAL with appropriate reference to the book and page of the recording of the Petitioner's title deed or notice of lease endorsed thereon.
  - c. A certified copy of such recorded notice shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.

*Plan - Draw*

Under Suspension of Rules  
Readings Waived and Approved  
22 yeas 0 nays 2 absent (Ald. Ciccone, O'Halloran)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on October 30, 1998. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.



ATTEST:

*Edward G. English*

(SGD) EDWARD G. ENGLISH, City Clerk

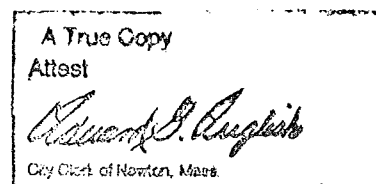
Clerk of the Board of Aldermen

I, Edward G. English, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on 10/30/95 and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST

*Edward G. English*

EDWARD G. ENGLISH, City Clerk



**CITY OF NEWTON  
ENGINEERING DIVISION**

**MEMORANDUM**

To: Alderman Ted Hess-Mahan, Land Use Committee Chairman

From: John Daghljan, Associate City Engineer

Re: Special Permit – 14 Roland Street

Date: May 2, 2011

CC: Lou Taverna, PE City Engineer (via email)  
Linda Finucane, Associate City Clerk (via email)  
Eve Tapper, Chief Planner (via email)  
Derek Valentine, Planner (via email)

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In reference to the above site, I have the following comments for a plan entitled:

*Proposed Garage  
Newton, MA  
Prepared by: Essex Survey Inc.  
Dated: February 26, 2010  
Revised: Dec 8, 2010  
January 10, 2011  
January 31, 2011*

*Executive Summary:*

The design entails a two stall garage and drainage improvements to an existing single family dwelling. The engineer of record has based his drainage design assuming just storage, and no infiltration. Even with this type of drainage design, the Engineering Division requires on site soil testing for various reasons which at a minimum include; concern for water breakout given the steep embankment in which it is proposed; the need to determine where the groundwater elevation is a this will effect design assumption and calculation, and capacity of the system. Therefore before approval is given for this drainage design an on site soil evaluation and testing is required.

Given the fact that a new curb cut will be required for the proposed garage and the old curb cut closed and remodeled as a sidewalk; as a Public Benefit the entire frontage of the

existing sidewalk should be replaced to meet current City and ADA Standards. Several of the exiting sidewalk panels are already cracked or heaved.

Construction Management:

1. A construction management plan is needed for this project. At a minimum it must address the following: staging site for construction equipment, construction material, construction worker's vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of contractor.
2. Stabilized driveway entrances are needed during construction which will provide a tire wash and mud removal to ensure City streets are kept clean.

Drainage:

1. A drainage analysis needs to be performed based on the City of Newton's 100-year storm event of 6-inches over a 24-hour period.
2. An on site soil evaluation needs to be performed to obtain the seasonal high groundwater elevation, percolation rate in accordance to Title V. This information must be submitted with the building permit application. The locations of these tests need to be shown on the site plan.
3. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
4. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the Homeowners Association.



General:

1. As of January 1, 2009, all trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans.*
4. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
7. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

## ATTACHMENT F

DRAFT  
#279-98(2)

CITY OF NEWTON  
IN BOARD OF ALDERMEN  
May 10, 2011

### ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following Petition #279-98(2) to AMEND A SPECIAL PERMIT and SITE PLAN APPROVAL for an EXTENSION of a NONCONFORMING STRUCTURE #279-98, granted on 10/19/98, in order to construct an attached garage in the front setback on an existing nonconforming single family dwelling at 14 ROLAND STREET, Ward 8, on land known as SBL 83, 33, 6, containing approximately 14,819 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sect. 30-24, 30-23, 30-21(b) of the City of Newton Rev Zoning Ord, 2007, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman Ted Hess-Mahan:

1. When reviewing this petition, the Board should consider whether the extension of a nonconforming structure is not substantially more detrimental to the neighborhood than the existing nonconforming structure for the following reasons:
  - a. Providing vehicular access to the rear of the structure would involve more substantial grade alteration than the garage addition within the front setback.
  - b. The repair of the deteriorating sidewalk and the removal of two curb cuts will improve the safety of pedestrians and motorists in the neighborhood.
  - c. Many of the other homes in the neighborhood are legally nonconforming with regard to front lot line setbacks.
  - d. The proposed addition is consistent with the architectural style of many of the newly rehabilitated homes in the neighborhood.
  - e. A mature wooded area provides natural screening between the site of the proposed expansion and the closest neighboring property.

PETITION NUMBER: #279-98(2)

PETITIONER: Svetlana Ostrovskaya

LOCATION: 14 Roland Street, Section 83, Block 33, Lot 6 containing approximately 14,819 sq. ft. of land

OWNER: Svetlana Ostrovskaya

ADDRESS OF OWNER: 14 Roland Street, Newton, MA

TO BE USED FOR: Garage addition with breezeway

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Section 30-24 for issuance of a special permit, 30-23 for site plan approval, 30-21(a)(2)(b) and 30-21(b) to extend a legally nonconforming structure and amendments to Board Order #279-98.

ZONING: Single Residence 3 District

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
  - “Proposed Garage, 14 Roland Street in Newton, Mass.,” dated January 31, 2011, signed and stamped by Frank Iebba, Professional Engineer.
  - Architectural drawings as follows “Ostrovskaya Residence,” all drawn by Roberts Architecture and Design, neither stamped nor signed and dated April 20, 2010:
    - “A-1, Proposed Floor Plan”
    - “A-3, Proposed Elevations”
2. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
  - a. recorded a certified copy of this Board Order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
  - b. filed a copy of such recorded Board Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.

- d. submitted revised plans to show the elimination of two curb cuts and a replacement sidewalk along the site's frontage for approval by the Director of Planning and Development.
- 3. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
  - a. filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
  - b. submitted to the Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format.